

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANDREW WILKINS, on behalf of himself and
all other similarly situated,

Plaintiff,

v.

G-STAR RAW ESTORE, INC.,

Defendant.

Civil Action No. _____

DEFENDANT’S NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331 and 1441, Defendant G-Star Raw eStore, Inc. (“G-Star” or “Defendant”), removes the action filed by Plaintiff Andrew Wilkins (“Plaintiff”) identified as *Andrew Wilkins v. G-Star Raw eStore, Inc.*, Civil Action No. 2023-09309-TT (the “State Court Action”), from the Court of Common Pleas of Chester County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania. In support of this Notice of Removal, G-Star states as follows:

INTRODUCTION

1. On or about November 21, 2023, Plaintiff filed a Complaint against Defendant in the Court of Common Pleas of Chester County, Pennsylvania (the “Complaint”). A true and correct copy of the Complaint filed in the State Court Action is attached hereto as **Exhibit A**, which constitutes all process, pleadings, and orders received by Defendant concerning the State Court Action. No other proceedings have been held in the State Court Action.

2. In the Complaint, Plaintiff asserts a single claim for violation of Title III of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12182, *et seq.*

TIMELINESS OF REMOVAL

3. Upon information and belief, Defendant was not served in the State Court Action.

4. Pursuant to 28 U.S.C. § 1446(b), actions may be removed within thirty (30) days “after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” Therefore, this action is removable as Defendant has not been served in the State Court action.

5. Defendant, the only named defendant in the Complaint, is represented by the undersigned counsel and consents to the timely removal of the State Court Action.

GROUND FOR REMOVAL

6. This Court has original jurisdiction over actions involving one or more federal questions. *See* 28 U.S.C. § 1331 (conferring original jurisdiction upon federal courts for actions arising under the laws of the United States).

7. Plaintiff’s only cause of action in the Complaint is for violation of Title III of the ADA—a federal statute codified at 42 U.S.C. §§ 12181, *et seq.* (*See* Ex. A (Compl. ¶¶ 38-45).) This action therefore presents a federal question over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331.

8. Based upon the allegations in the Complaint, and without waiving any challenges with respect to same, venue is proper in this Court because the State Court Action was filed in the Court of Common Pleas of Chester County, Pennsylvania.

9. No discovery has been issued or commenced in the State Court Action.

NOTICE OF FILING OF REMOVAL IN COURT OF COMMON PLEAS

10. This Notice of Removal is being filed in the United States District Court for the Eastern District of Pennsylvania, because this is the district court in which the State Court Action is pending. 28 U.S.C. § 1441(a).

11. Pursuant to 28 U.S.C. § 1446, Defendant will file a notice of the filing of this Notice of Removal, together with a copy of the Notice of Removal, with the Clerk of the Court of Common Pleas of Chester County, Pennsylvania. Defendant also will serve a copy of the notice filed with the Court of Common Pleas of Chester County, Pennsylvania on counsel for all adverse parties.

12. By filing this Notice of Removal, Defendant neither admits any factual allegations, nor waives any affirmative defenses and/or preliminary objections that may be available to it. Removal does not constitute a waiver by Defendant of the right to seek dismissal of the Complaint.

13. Should any question arise as to the propriety of this removal, Defendant requests the opportunity to brief any disputed issues and to present oral argument in support of its position.

WHEREFORE, Defendant respectfully requests that the above-referenced civil action proceed in the United States District Court for the Eastern District of Pennsylvania, as an action properly removed to that court.

Dated: December 20, 2023

Respectfully submitted,

SEYFARTH SHAW LLP

*Attorneys for Defendant,
G-Star Raw eStore, Inc.*

By: /s/ Jacob Oslick

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CERTIFICATE OF SERVICE

I certify that on December 20, 2023 I served the foregoing DEFENDANT'S NOTICE OF REMOVAL on the following attorney of record by U.S. regular mail, proper postage prepaid addressed as follows:

Daniel Zemel, Esq.
Zemel Law LLC
400 Sylvan Avenue, Suite 200
Englewood, NJ 07632

By: /s/ Jacob Oslick
Jacob Oslick
Attorney for Defendant